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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/487,978	01/20/00	HUNTER	C WT-5

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TM02/1009

EXAMINER

ELISCA, P

ART UNIT

PAPER NUMBER

2161

DATE MAILED:

10/09/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
**09/487,978**

Applicant(s)  
**Charles Eric, Hunter et al.**

Examiner  
**Pierre E. Elisca**

Group Art Unit  
**2161**



☒ Responsive to communication(s) filed on Jan 20, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1 and 2 is/are pending in the application.

Of the above, claim(s) none is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1 and 2 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

**Art Unit:**

**Examiner Pierre Eddy Elisca**

**United States Department of Commerce**

**Patent and Trademark Office**

**Washington, D. C. 20231**

**DETAILED ACTION**

1. This Office action is in response to application number 09/487,978, filed on 01/20/2000.
2. Claims 1 and 2 are presented for examination.

***Specification***

3. This application filed under former 37 CFR 1.60 lacks the necessary reference to the prior application. A statement reading "These Applications 09/707,273, filed on 11/06/2000, 09/684,442, filed 10/06/2000, and 09/855,992, filed on 05/15/2001, which are continuation- in-part of application No. 09/385,671" should be entered following the title of the invention or as the first sentence of the specification. Also, the current status of all nonprovisional parent applications referenced should be included. Appropriate correction is required.

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*Oath/Declaration*

4. Oath/ Declaration is objected to because of the following informalities. Examiner suggests to the Applicant's representative to submit a new Oath/Declaration and to include all the necessary reference (continuation-in-part) related to this application.

*ABSTRACT*

5. The abstract of the disclosure is objected to because of the following informalities. Applicant is advised to remove the line at the bottom of the abstract.

*Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 and 2 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Kleiman (U.S. Pat. No. 5,959,945) in view of LOONEY et al. (U.S. Pat. No. 5,969,283).

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As per claim 1, Kleiman discloses the claimed system for distributing music to local, electronic jukeboxes see., abstract, lines 1 and 2 (which is seen to read on Applicant's claimed invention wherein said a system for distributing music to customer households), comprising:

a data transmission system blanket transmitting a plurality of music selections to customer households (this limitation is disclosed by Kleiman in the abstract, lines 5-9, specifically wherein it is stated that "a jukebox (or customer) selectively requests the transmission of songs from the central storage location using a variety of communication means based upon usage data with respect to songs and the menu");

a user station at each customer household, the user station including means permitting the customer household to preselect desired transmitted music selections for recording (this limitation is disclosed by Kleiman in the abstract, lines 9-14, specifically wherein it is stated that "the request can be initiated by the jukebox and can occur automatically based on statistics compiled by the jukebox representing user demand. The central storage location processes the requests and schedules individual requests from each jukebox to coordinate transmission of music to multiple locations simultaneously", and also col 4, lines 21-31, col 6, lines 22-40, fig 1, ITs);

a receiver and associated recording (or download the music) means at each customer household for recording preselected music selections for unrestricted playback (this limitation is disclosed by Kleiman in the abstract, lines 9-17, specifically wherein it is stated that "the request can be initiated by the jukebox and can occur automatically based on statistics compiled by the jukebox representing user demand. The central storage location processes the requests and

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schedules individual requests from each jukebox to coordinate transmission of music to multiple locations simultaneously”, and also col 4, lines 21-31, col 6, lines 22-40, fig 1, ITs, please note that this is the process of downloading the music at the jukebox or customer);

a central controller system having a database for storing therein an address corresponding to each customer household (this limitation is disclosed by Kleiman in the abstract, lines 2-9, specifically, wherein it is stated that “ menuing system (or music) is stored in a central storage location);

a communications link between each customer household and the central controller system to verify to the controller system when a preselected music selection has been recorded (this limitation is disclosed by kleiman in the abstract, lines 5-17, specifically wherein it is stated that “ a jukebox (or customer) selectively requests the transmission of songs from the central storage location using a variety of communication means based upon usage data with respect to songs and the menu. The central storage location periodically updates the local jukeboxes with a list of new releases, during which time the jukebox can also download (download or record) the music”, please note that the central storage location is readable as a central controller database, since it can coordinate transmission of music to multiple locations simultaneously and update the local jukeboxes, please also note that since the central storage location or central controller periodically updates, processes, and schedules individual requests from each jukebox or customer, during which time the jukebox or customer can download or copy the music, and therefore, can verify when music selection has been recorded or download or copy);

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a billing system associated with the central controller system to bill customer households for music selections that are recorded (**this limitation is disclosed by Kleiman in col 5, lines 16-28, specifically wherein it is stated “a secure environment for the transfer of music and other sensitive information for purchasing songs or paying (paying or billing) for services from the central location to each of the computer jukeboxes (jukeboxes or customer), please note that the secure environment of Kleiman is capable of billing the customer or jukeboxes for the music selection).**

**It is noted that Kleiman** does not explicitly disclose that his central controller or central storage has an ID tag (or ID) in the recorded music to identify the customer at which the recording is made. **However, Looney** a music organizer and entertainment center wherein a CD-ROM and/ or individual songs can include a special code or identification that is keyed to the user's system's code. In this manner only the user's system can load the songs on its hard drive, see., Looney, col 2, lines 51-54 (which is equivalent to the limitation detailed above wherein said an ID tag or ID in the record music to identify the customer at which the recording is made).

Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the music distribution of **Kleiman** by including the membership customer ID or ID tag taught by **Looney** because such modification would provide the music distribution of **Kleiman** with the advantage of having an individual ID for customers, the customer can have a library of music to playback in a variety of portable and fixed base units (see., Looney, col 2, lines 56-58).

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As per claim 2, Kleiman discloses the claimed method for distributing music to local, electronic jukeboxes via satellite see., abstract, lines 1 and 2, fig 1, col 7, lines 38-45 (which is seen to read on Applicant's claimed invention wherein said a system for distributing music to customer households), comprising:

blanket transmitting a plurality of music selections to customer households by **direct broadcast satellite at data transmission rates faster than real time (this limitation is disclosed by Kleiman in the abstract, lines 5-9, specifically wherein it is stated that " a jukebox (or customer) selectively requests the transmission of songs from the central storage location using a variety of communication means based upon usage data with respect to songs and the menu", and also Kleiman discloses direct broadcast satellite, see., fig 1, col 7, lines 10-58);**

providing each customer household with information identifying available music selections (or download the music) that will be transmitted **(this limitation is disclosed by Kleiman in the abstract, lines 9-17, specifically wherein it is stated that "the request can be initiated by the jukebox and can occur automatically based on statistics compiled by the jukebox representing user demand. The central storage location processes the requests and schedules individual requests from each jukebox to coordinate transmission of music to multiple locations simultaneously", and also col 4, lines 21-31, col 6, lines 22-40, fig 1, ITs, please note that this is the process of downloading the music at the jukebox or customer);**



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permitting the customer household to preselect desired transmitted music selections for recording in conventional format such as compact disc format **(this limitation is disclosed by Kleiman in the abstract, lines 9-14, specifically wherein it is stated that “the request can be initiated by the jukebox and can occur automatically based on statistics compiled by the jukebox representing user demand. The central storage location processes the requests and schedules individual requests from each jukebox to coordinate transmission of music to multiple locations simultaneously”, and also col 4, lines 21-31, col 6, lines 22-40, fig 1, ITs);**

communicating permanent selection information from each customer household to a central controller **(this limitation is disclosed by Kleiman in the abstract, lines 2-17, specifically wherein it is stated that “ a jukebox (or customer) selectively requests the transmission of songs from the central storage location using a variety of communication means based upon usage data with respect to songs and the menu. The central storage location periodically updates the local jukeboxes with a list of new releases, during which time the jukebox can also download (download or record) the music”, please note that the central storage location is readable as a central controller database, since it can coordinate transmission of music to multiple locations simultaneously and update the local jukeboxes);**

a billing customer households for the recorded music selections that are permanently selected **(this limitation is disclosed by Kleiman in col 5, lines 16-28, specifically wherein it is stated “a secure environment for the transfer of music and other sensitive information for purchasing songs or paying (paying or billing) for services from the central location to each of the computer**

**Art Unit:**

jukeboxes (jukeboxes or customer , please note that the secure environment of **Kleiman** is capable of billing the customer or jukeboxes for the music selection).

It is noted that **Kleiman** does not explicitly disclose that his central controller or central storage has an ID tag (or ID) in the recorded music to identify the customer at which the recording is made.

However, **Looney** a music organizer and entertainment center wherein a CD-ROM and/ or individual songs can include a special code or identification that is keyed to the user's system's code. In this manner only the user's system can load the songs on its hard drive, see., **Looney**, col 2, lines 51-54 (which is equivalent to the limitation detailed above wherein said an ID tag or ID in the record music to identify the customer at which the recording is made).

Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the music distribution of **Kleiman** by including the membership customer ID or ID tag taught by **Looney** because such modification would provide the music distribution of **Kleiman** with the advantage of having an individual ID for customers, the customer can have a library of music to playback in a variety of portable and fixed base units (see., **Looney**, col 2, lines 56-58).

***Conclusion***

8. Any inquiry concerning this communication from the examiner should be directed to Pierre Eddy Elisca at (703) 305-3987. The examiner can normally be reached on Tuesday to Friday from 6:30AM to 5:00PM.

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If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9769.

**Any response to this action should be mailed to :**

Commissioner of Patents of Trademarks

Washington, D. C. 20231

**or faxed to :**

(703) 308-9051, (for formal communications intended for entry)

**OR :**

(703) 305-3718, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth floor (receptionist).

  
**Pierre Eddy Elisca**

**Patent Examiner**

**September 23, 2001**